

Message Text

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ORIGIN EB-07

INFO OCT-01 EUR-12 ISO-00 L-03 COME-00 JUSE-00 FTC-01 PA-02

PRS-01 USIA-15 IO-13 OPIC-06 INR-07 /068 R

DRAFTED BY EB/IFD/BP:WBLOCKWOOD:VJW

APPROVED BY EB/IFD/BP:HJWINTER

L/EB - JCROOK

EUR/NE - NACHILLES

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R 290132Z JUL 76

FM SECSTATE WASHDC

TO AMEMBASSY LONDON

INFO USMISSION OECD PARIS

UNCLAS STATE 187313

E.O. 11652: N/A

TAGS: ETRD, UK

SUBJECT: ANTITRUST: BRITISH PUBLISHERS ASSOCIATION

REF: STATE 270405, NOV. 1975

1. THERE IS QUOTED BELOW A PRESS RELEASE FROM DEPARTMENT OF JUSTICE OF JULY 27 REGARDING A FINAL CONSENT DECREE WHICH WOULD SETTLE JUSTICE'S ANTITRUST SUIT AGAINST 21 U.S. PUBLISHERS, AND INVOLVING THE BRITISH PUBLISHERS ASSOCIATION. THIS CASE AROUSED CONSIDERABLE ATTENTION IN THE BRITISH PRESS AND IN UK GOVERNMENT CIRCLES. PURSUANT TO OECD PROCEDURES ON RESTRICTIVE BUSINESS PRACTICES, THE EMBASSY IS REQUESTED TO NOTIFY APPROPRIATE UK AUTHORITIES OF THIS OUTCOME.

2. TEXT OF PRESS RELEASE FOLLOWS:

QUOTE: THE DEPARTMENT OF JUSTICE FILED A PROPOSED CONSENT DECREE TODAY THAT WOULD TERMINATE A CIVIL ANTITRUST SUIT
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AGAINST 21 MAJOR AMERICAN PUBLISHING HOUSES CHARGED WITH

CONSPIRING TO DIVIDE WORLD MARKETS FOR THE SALE OF ENGLISH-LANGUAGE BOOKS.

-- ATTORNEY GENERAL EDWARD H. LEVI SAID THE PROPOSED DECREE, WHICH WILL BECOME FINAL AFTER APPROVAL BY THE COURT, WAS FILED IN U.S. DISTRICT COURT IN NEW YORK CITY.

-- THE SUIT, FILED NOVEMBER 25, 1974, CHARGED THAT THE PUBLISHERS HAD ENTERED INTO AGREEMENTS SINCE 1947 TO ALLOCATE EXCLUSIVE MARKETING TERRITORIES THROUGHOUT THE ENGLISH-SPEAKING WORLD, AND THAT THEY MONITORED AND ATTEMPTED TO SUPPRESS ACTUAL AND ATTEMPTED BREACHES OF THE ALLOCATION AGREEMENTS, IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT.

-- ASSISTANT ATTORNEY GENERAL THOMAS E. KAUPER, IN CHARGE OF THE ANTITRUST DIVISION, SAID THE PROPOSED DECREE WOULD PROHIBIT THE DEFENDANTS FROM ENTERING INTO AGREEMENTS WITH TWO OR MORE PUBLISHERS TO ALLOCATE TERRITORIES OR CUSTOMERS FOR THE PUBLICATION, SALE, OR DISTRIBUTION OF BOOKS.

-- THE PROPOSED DECREE ALSO ENJOINS THE DEFENDANTS FROM ENTERING INTO ANY BILATERAL AGREEMENT WITH A BRITISH PUBLISHER THAT CONDITIONS THE PRESENT GRANT OF AN EXCLUSIVE COPYRIGHT LICENSE TO THE BRITISH PUBLISHER UPON A GRANT BACK BY THE BRITISH PUBLISHER TO THE DEFENDANT OF AN EXCLUSIVE COPYRIGHT LICENSE FOR A FUTURE BOOK.

-- IN ADDITION, THE DECREE WOULD PROHIBIT THE DEFENDANTS FROM ENFORCING ANY RESTRICTION ON THE RESALE OF BOOKS LAWFULLY PUBLISHED ABROAD, EXCEPT WHERE A STATUTORY RIGHT EXISTS TO EXCLUDE THE IMPORTATION OF SUCH BOOKS.

-- PRIOR TO THE FILING OF THIS PROPOSED DECREE, THE DEPARTMENT OF JUSTICE RECEIVED OFFICIAL NOTIFICATION FROM THE PUBLISHERS ASSOCIATION OF GREAT BRITAIN, WHICH WAS NAMED AS A CO-CONSPIRATOR IN THIS SUIT, THAT A SO-CALLED BRITISH MARKET AGREEMENT (FORMERLY CALLED THE "BRITISH PUBLISHERS' TRADITIONAL MARKET AGREEMENT")

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HAD BEEN TERMINATED AND THAT NOTICE OF TERMINATION HAD BEEN GIVEN TO ALL THE MEMBERS OF THE ASSOCIATION.

-- THAT AGREEMENT WAS AN UNDERTAKING WHEREBY MEMBERS OF THE ASSOCIATION AGREED NOT TO ACCEPT A COPYRIGHT LICENSE FOR A BOOK FROM A FOREIGN AUTHOR OR PUBLISHER UNLESS THE LICENSE INCLUDED THE EXCLUSIVE RIGHTS FOR PUBLICATION AND DISTRIBUTION OF THE BOOK IN THE "BRITISH

TRADITIONAL MARKET." THAT IS A GROUP OF APPROXIMATELY 70 ENGLISH-SPEAKING COUNTRIES COMPRISING VIRTUALLY ALL PRESENT AND FORMER MEMBERS OF THE BRITISH COMMONWEALTH.

-- THE BRITISH MARKET AGREEMENT WAS AN ELEMENT OF THE CONSPIRACY ALLEGED IN THE COMPLAINT.

-- IN ACCORDANCE WITH THE ANTITRUST PROCEDURES AND PENALTIES ACT OF 1974, A COMPETITIVE IMPACT STATEMENT REGARDING THE PROPOSED DECREE HAS BEEN FILED WITH THE COURT.

-- BOTH THE PROPOSED DECREE AND THE COMPETITIVE IMPACT STATEMENT ARE AVAILABLE FOR INSPECTION AND COPYING ON REQUEST IN THE LEGAL PROCEDURE UNIT OF THE ANTITRUST DIVISION, ROOM 3305, DEPARTMENT OF JUSTICE, WASHINGTON, D.C. 20530.

-- THEY ARE ALSO FILED AND AVILABLE FOR INSPECTION IN THE OFFICE OF THE CLERK OF THE U.S. DISTRICT COURT, FOLEY SQUARE, NEW YORK, NEW YORK.

-- COMMENTS TO THE DEPARTMENT OF JUSTICE AND THE COURT REGARDING THE PROPOSED JUDGMENT ARE INVITED FROM MEMBERS OF THE PUBLIC WITHIN 60 DAYS, AND SHOULD BE ADDRESSED TO JOEL DAVIDOW, CHIEF, FOREIGN COMMERCE SECTION, ANTITRUST DIVISION, DEPARTMENT OF JUSTICE, WASHINGTON, D. C. 20530.
END QUOTE. KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LITIGATION, ANTITRUST, PRESS RELEASES, PUBLISHING SERVICES
Control Number: n/a
Copy: SINGLE
Draft Date: 29 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE187313
Document Source: CORE
Document Unique ID: 00
Drafter: WBLOCKWOOD:VJW
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760292-1042
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t1976079/aaaaahde.tel
Line Count: 143
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EB
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 76 STATE 270405
Review Action: RELEASED, APPROVED
Review Authority: hackerp0
Review Comment: n/a
Review Content Flags:
Review Date: 26 FEB 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26 FEB 2004 by ThomasVJ>; APPROVED <07 JAN 2005 by hackerp0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: ANTITRUST: BRITISH PUBLISHERS ASSOCIATION
TAGS: ETRD, UK, US, JUS, BRITISH PUBLISHERS ASSOC
To: LONDON
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006